

# EXHIBIT “G”

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UNITED STATES DISTRICT COURT SOUTHERN  
DISTRICT OF NEW YORK  
-----X  
FRANKLIN BUONO,  
  
PLAINTIFF,  
  
-against- Case No.:  
1:17-CV-05915-JFK  
  
VICTORY AUTO STORE, INC., VICTORY AUTO  
STORES, INC. D/b/a POSEIDON AIR SYSTEMS,  
TYCO FIRE PRODUCTS LP, PAMELA L. SIMPERS,  
PAMELA L. SIMPERS d/b/a VICTORY AUTO  
STORES, BAUER COMP HOLDING GMBH, BAUER  
KOMPRESSOREN GMBH and BAUER COMPRESSORS,  
INC.,  
  
DEFENDANTS.  
-----X  
TYCO FIRE PRODUCTS LP,  
  
THIRD-PARTY PLAINTIFF,  
  
-against-  
  
O'PRANDY'S FIRE & SAFETY INC.,  
  
THIRD-PARTY DEFENDANT.  
-----X

DATE: September 12, 2019  
TIME: 8:12 a.m.

(DEPOSITION of ADAM R. MENOR.)

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DATE: September 12, 2019  
TIME: 8:12 a.m.

VIDEOTAPED VIDEOCONFERENCED  
DEPOSITION of the Defendant/Third-Party  
Plaintiff, TYCO FIRE PRODUCTS LP, by a  
witness, ADAM R. MENOR, taken by the  
respective parties, held at the offices of  
Bay Reporting Service, Inc., 414 South  
Jefferson Street, Green Bay, Wisconsin  
54301, before Carrie S. Bohrer, RPR, RMR,  
CRR.

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2 A P P E A R A N C E S

3

4 FINKELSTEIN & PARTNERS, LLP  
Attorneys for the Plaintiff  
5 1279 Route 300, P.O. Box 1111  
Newburgh, New York 12551  
6 BY: KENNETH FROMSON, ESQ.  
Kfromson@lawampm.com  
7 (Via videoconference)

8

9 SHOOK, HARDY & BACON L.L.P.  
Attorneys for the Defendant/  
Third-Party Plaintiff  
10 TYCO FIRE PRODUCTS LP  
2555 Grand Boulevard  
11 Kansas City, Missouri 64108  
BY: SARAH E. LYNN BALTZELL, ESQ.  
12

13

HAWORTH, BARBER & GERSTMAN, LLC  
14 Attorneys for the Third-Party Defendant  
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15 45 Broadway, 21st Floor  
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16 BY: TARA FAPPIANO, ESQ.  
Tara.fappiano@hbandglaw.com  
17 (Via videoconference)

18

19 ALSO PRESENT:

20

MARK DENESSEN, Videographer

21

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**221. UNIFORM RULES FOR THE  
CONDUCT OF DEPOSITIONS**

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**221.1 Objections at Depositions**

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**(a) Objections in general.** No

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objections shall be made at a deposition except those which, pursuant to subdivision (b), (c) or (d) of Rule 3115 of the Civil Practice Law and Rules, would be waived if not interposed, and except in compliance with subdivision (e) of such rule. All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to Article 31 of the CPLR.

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**(b) Speaking objections restricted.**

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Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of the examination persons in attendance shall not make statements or comments that interfere with the questioning.

**221.2 Refusal to answer when objection is made**

A deponent shall answer all questions at a deposition, except (i) to preserve a privilege or right of confidentiality, (ii) to enforce a limitation set forth in an order of the court, or (iii) when the question is plainly improper and would, if answered, cause significant prejudice to any person. An attorney shall not direct a deponent not to answer except as provided in CPLR Rule 3115 or this subdivision. Any refusal to answer or direction not to answer shall be accompanied by a succinct and clear statement of the basis therefor. If the deponent does not answer a question, the examining party shall have the right to complete the remainder of the deposition.

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2                   **221. UNIFORM RULES FOR THE**  
3                   **CONDUCT OF DEPOSITIONS**

4                   **221.3 Communication with the deponent**

5                   An attorney shall not interrupt the  
6                   deposition for the purpose of communicating  
7                   with the deponent unless all parties  
8                   consent or the communication is made for  
9                   the purpose of determining whether the  
10                  question should not be answered on the  
11                  grounds set forth in section 221.2 of these  
12                  rules and, in such event, the reason for  
13                  the communication shall be stated for the  
14                  record succinctly and clearly.

15                 IT IS FURTHER STIPULATED AND AGREED  
16                 that the transcript may be signed before  
17                 any Notary Public with the same force and  
18                 effect as if signed before a clerk or a  
19                 Judge of the court.

20                 IT IS FURTHER STIPULATED AND AGREED  
21                 that the examination before trial may be  
22                 utilized for all purposes as provided by  
23                 the CPLR.

24                 IT IS FURTHER STIPULATED AND AGREED  
25                 that all rights provided to all parties by  
26                 the CPLR cannot be deemed waived and the  
27                 appropriate sections of the CPLR shall be  
28                 controlling with respect hereto.

29                 IT IS FURTHER STIPULATED AND AGREED  
30                 by and between the attorneys for the  
31                 respective parties hereto that a copy of  
32                 this examination shall be furnished,  
33                 without charge, to the attorneys  
34                 representing the witness testifying herein.

1 A. MENOR

2 THE VIDEOGRAPHER: We're on the  
3 record with the start of Media Unit  
4 Number 1 in the deposition of Adam  
5 Menor for Case Number  
6 1:17-CV-05915-JFK, United States  
7 District Court, Southern District of  
8 New York. We're at Bay Reporting  
9 Service, Green Bay, Wisconsin. It's  
10 September 12th, 2019. The time is  
11 approximately 8:12 a.m.

12 The attorneys will now identify  
13 themselves and who they represent.

14 MR. FROMSON: On behalf of the  
15 plaintiff, my name is Kenneth Fromson  
16 with Finkelstein & Partners.

17 MS. FAPPIANO: My name is Tara  
18 Fappiano. I'm with Haworth, Barber &  
19 Gerstman. I represent Oprandy's Fire  
20 & Safety Equipment.

21 MS. BALTZELL: Sarah Baltzell,  
22 on behalf of Tyco Fire Products, with  
23 Shook, Hardy & Bacon.

24 THE VIDEOGRAPHER: The court  
25 reporter will now swear in the

1 A. MENOR

2 witness and then we'll begin.

3 A D A M R. M E N O R, called as a  
4 witness herein, having been first duly  
5 sworn/affirmed, was examined and testified  
6 as follows:

7 EXAMINATION BY

8 MR. FROMSON:

9 Q. Good morning, Mr. Menor. How  
10 are you?

11 A. Good.

12 Q. Thank you for making yourself  
13 available today. My name is Ken Fromson.  
14 I'm going to ask you a number of questions  
15 this morning that stem from an incident  
16 that happened on February 12th, 2016. And  
17 I would ask you to keep your -- your voice  
18 up and speak clearly and slowly if possible  
19 for the benefit of the reporter. You  
20 notice that there's a videographer here  
21 today as well, such that we're recording  
22 this video. In the event the matter goes  
23 to trial, we would make efforts to play the  
24 video before a jury. The answers you give  
25 today are under oath as if you were in a

1 A. MENOR

2 courtroom. Do you understand that?

3 A. I do.

4 Q. Could you give us your -- your  
5 name and address --

6 A. Adam --

7 Q. -- for the record?

8 A. -- Robert Menor, 251 Meyer  
9 Avenue, Peshtigo, Wisconsin, 54157.

10 Q. And what's your age?

11 A. I am 36 years old.

12 Q. And what is your occupation by  
13 trade? What do you do for a living?

14 A. I'm the director of  
15 engineering.

16 Q. And for what company are you  
17 the director of engineering?

18 A. Johnson Controls.

19 Q. And where is Johnson Control  
20 located?

21 A. My office is in Marinette,  
22 Wisconsin.

23 Q. What's the nature of the  
24 business, generally speaking, of Johnson  
25 Controls?

1 A. MENOR

2 A. So my division of Johnson  
3 Controls is the fire suppression division.  
4 So we're -- we're -- design and develop  
5 fire suppression equipment, fire protection  
6 equipment.

7 Q. For how long have you been the  
8 director of engineering at Johnson Control?

9 A. I was transitioned to the  
10 director in -- it was April, May of 2015.

11 Q. Generally speaking, what do you  
12 do as the director of engineering for  
13 Johnson Control?

14 A. Generally speaking, I'm  
15 responsible for the design and development  
16 and sustainment of our products, so have a  
17 team of managers, engineers, chemists, and  
18 technicians that control the design of our  
19 products and develop new products.

20 Q. And before you transitioned  
21 into being the director of engineering for  
22 Johnson Control, what position did you  
23 hold?

24 A. Prior to being the engineering  
25 director, I was the test engineering

1 A. MENOR

2 manager at Johnson Controls.

3 Q. And just give us a brief  
4 description of what that -- that job duty  
5 was -- or what those job duties were.

6 A. Yeah, so as the test  
7 engineering manager I was responsible for a  
8 team of technicians that did testing of our  
9 products, and then also the facilities in  
10 Marinette, Wisconsin that we use to do the  
11 testing of our products.

12 Q. And when did you become a test  
13 engineering manager?

14 A. In December of 2010.

15 Q. And did you hold that position  
16 consecutively until approximately April or  
17 May of 2015 when you became a director?

18 A. That is correct.

19 Q. Okay. And then I presume that  
20 was with Johnson Controls, correct?

21 A. Correct.

22 Q. And before that what was your  
23 position?

24 A. I was a mechanical engineer  
25 with Johnson Controls.

1 A. MENOR

2 Q. And again, just generally  
3 speaking, what does it mean to be a  
4 mechanical engineer with Johnson Control?

5 A. Yep. So I was responsible --  
6 in that role, as a mechanical engineer, I  
7 was responsible for the sustainment of our  
8 product lines, specifically some of our  
9 restaurant systems and our engineered  
10 systems at that time.

11 Q. And for approximately how long  
12 were you a mechanical engineer for Johnson  
13 Controls?

14 A. From January of 2008 to  
15 December 2010 when I was promoted to the  
16 test engineering manager.

17 Q. When did you first become  
18 employed by Johnson Control?

19 A. January 2008.

20 Q. And before becoming first  
21 employed in January of 2008 by Johnson  
22 Control, did you have a job?

23 A. I did.

24 Q. What were you doing?

25 A. I was a manufacturing engineer

1 A. MENOR

2 at KS Kolbenschmidt, Karl Schmidt Unisia at  
3 the time, KSU, in Marinette, Wisconsin.

4 How to spell that?

5 (Laughter.)

6 Q. Could you say that slowly for  
7 us one more time --

8 A. Yeah.

9 Q. -- so we can try and spell it  
10 phonetically?

11 A. Yeah. So the name of the  
12 company is KS Kolbenschmidt.

13 Q. Where were they located?

14 A. In Marinette, Wisconsin as  
15 well.

16 Q. And generally speaking what did  
17 you do for them?

18 A. So as a manufacturing engineer  
19 I was responsible for the surface treatment  
20 department, the engineering activities in  
21 the surface treatment department. So  
22 they're a manufacturer of automotive  
23 pistons, and they had some surface  
24 treatment anodizing and skirt coating for  
25 -- anti-friction coating of the skirts of

1 A. MENOR

2 the pistons. So I was responsible for  
3 capital equipment and the operation of that  
4 equipment.

5 Q. For approximately how long were  
6 you employed by that company?

7 A. Approximately two years, I  
8 believe. I started there in December of  
9 2005.

10 Q. What's your educational  
11 background?

12 A. So I have a bachelor's degree  
13 in mechanical engineering technology from  
14 Northern Michigan University in Marquette,  
15 Michigan. And I have a master's in  
16 business administration from the University  
17 of Wisconsin-Oshkosh.

18 Q. And when did you graduate from  
19 college to get your bachelor's?

20 A. I graduated from Northern  
21 Michigan University in December of 2005.

22 Q. In terms of a working  
23 relationship, if any, with the defendant in  
24 this case, Tyco Fire Protection Products,  
25 can you explain the relationship, if any,

1 A. MENOR

2 as to why you're here with -- from Johnson  
3 Controls to discuss a product from Tyco?

4 A. Yeah, so Johnson Controls is  
5 the parent company of the legal entity for  
6 Marinette, Wisconsin, which is Tyco Fire  
7 Products LP. And Tyco --

8 Q. Do you understand -- sorry. Go  
9 ahead. I didn't mean to cut you off.

10 A. So Tyco -- the parent company,  
11 Tyco International, and Johnson Controls  
12 merged in 2016.

13 Q. Do you have a general  
14 understanding that this case involves a  
15 fire suppression tank incident that  
16 happened in February of 2016?

17 A. Yes.

18 Q. And generally speaking what did  
19 you do to prepare for this deposition  
20 today? Don't tell me what if anything was  
21 said between yourself and lawyers, but  
22 generally speaking what did you do to  
23 prepare for the topics that we will discuss  
24 today?

25 A. I reviewed the OSHA report for

1 A. MENOR

2 this incident, and I had internal  
3 discussions with some of my colleagues, and  
4 I reviewed some internal documentation, I  
5 reviewed some external standards, and I had  
6 discussions with the attorney for Tyco Fire  
7 Products LP.

8 Q. Do you have a -- what is your  
9 understanding as to the type of fire  
10 suppression tank that was involved in the  
11 event for which I represent Mr. Buono?

12 A. So from my review of the OSHA  
13 report, looking at the pictures and the  
14 dimensions of the tank, it's a -- a test  
15 tank from the Kitchen Knight system.

16 Q. And so if I could, I just want  
17 you to educate us on what it means to be a  
18 test tank. Can you explain to us what is  
19 meant by that term in your industry?

20 A. A test tank was -- is offered  
21 by the company. So it left the company in  
22 an empty state, so an unpressurized state,  
23 and it was sold to end users for the use of  
24 conducting testing of the fire suppression  
25 piping system. So NFPA 17A requires

1 A. MENOR

2 obstruction piping integrity testing. So  
3 the test tank was a -- is a tool used for  
4 that testing.

5 Q. And when you reference,  
6 generally speaking, that the tank left the  
7 company in an empty state, would that  
8 include the assembly that's affixed to the  
9 top of the tank as well?

10 A. It would be the -- the cylinder  
11 itself as well as the valve assembly in an  
12 assembled state.

13 Q. And as it pertained to the test  
14 tank in this case, as you understand it, do  
15 you have a -- an understanding as to what  
16 size tank was involved? And I'll be  
17 perfectly clear. A 2.4 as opposed to a  
18 3-gallon, do you have an understanding as  
19 to what you believe it was?

20 A. Yeah, so based off of the --  
21 the OSHA report and --

22 THE WITNESS: Could I have the  
23 OSHA report?

24 A. Based off of the OSHA report,  
25 the dimensions specified in the report,

1 A. MENOR

2 which I don't recall the exact dimensions,  
3 but I believe they're 8 by 22, that aligns  
4 with a 2.4-gallon test tank.

5 Q. Do -- given your review of the  
6 OSHA report, did you observe references to  
7 it being a 3-gallon tank?

8 A. Yes. I believe the OSHA report  
9 specifies it as being a Pyro-Chem Kitchen  
10 Knight II PCL-300 cylinder assembly.

11 Q. And to be more clear, was it  
12 referenced as a 300T; in other words, a  
13 test tank?

14 A. It was not. It was referenced  
15 as a Pyro-Chem Kitchen Knight II PCL-300  
16 cylinder assembly with part number 551194,  
17 which I believe is an agent tank.

18 Q. Is there a distinction between  
19 an agent -- just generally speaking, in  
20 your industry, using your terms, is there a  
21 distinction between an agent tank and a  
22 test tank?

23 A. Yes. An agent --

24 Q. Would you educate us on the  
25 difference?

1 A. MENOR

2 A. An agent tank has a chemical  
3 agent, a fire suppression agent, that's in  
4 a pressurized condition and shipped as a --  
5 as an assembly.

6 MR. FROMSON: Sure. Madam  
7 Reporter, can you read back his  
8 answer for the benefit of counsel?

9 THE COURT REPORTER: Sure.

10 (Requested portion of record  
11 read.)

12 MS. FAPPIANO: Thank you.

13 Q. And the capacity -- that test  
14 tank is shipped empty, right?

15 A. That is correct.

16 Q. Is it your understanding that  
17 the OSHA report, if it would have been more  
18 accurate, it would have reflected the  
19 cylinder as being a PCL-240 as opposed to  
20 it indicating it being a 300?

21 A. It would be a Kitchen Knight  
22 PCL-240T.

23 Q. The T meaning test?

24 A. That is correct.

25 Q. And are you familiar with the

1 A. MENOR

2 Kitchen Knight manuals as it pertains to  
3 instructions for use and maintenance and  
4 recharge, just generally speaking?

5 A. I'm aware of the Kitchen Knight  
6 and Kitchen Knight II manuals.

7 Q. Okay. Would there be a  
8 difference in terms of the maintenance and  
9 recharging procedures as in between the  
10 240T and a 300T, or are they the same but  
11 for the size?

12 MS. BALTZELL: And let -- let  
13 me just for a minute kind of clarify  
14 the record. I know we did this  
15 before we got on, but as far as  
16 deposition topics go, Mr. Harding is  
17 going to be here this afternoon to  
18 talk about the manual as one of the  
19 topics, and so just for clarification  
20 before we continue with the  
21 questioning, we have designated Mr.  
22 Menor on plaintiff's notice for  
23 Topics 1, 3, 5, 7, 8, 10, 11, 12; and  
24 then on the topics for Oprandy's  
25 notice, for the topics related to the

1 A. MENOR

2 manual will be designated with Mr.  
3 Harding this afternoon.

4 MR. FROMSON: I appreciate  
5 that. Thank you.

6 Q. So then let me reference your  
7 attention to Topic Number 3 on the  
8 deposition notice submitted by Plaintiff,  
9 and I'll read it to you: Testimony  
10 regarding the Defendant's basis for and  
11 implementation of language into or  
12 exclusion of language from the cylinder's  
13 tank labeling, including affixed markings  
14 to, or part of, the cylinder tank.

15 So I read that to you just to  
16 give you a heads-up. I'll only ask you  
17 questions about markings on the tank. Fair  
18 enough?

19 A. Understood.

20 Q. All right. And that's a topic  
21 that you've been designated to discuss  
22 today, so let me ask you a great general  
23 foundational question. How did the  
24 defendant in this case, to the best of your  
25 knowledge, go about determining what

1 A. MENOR

2 markings to put on the tank that was  
3 involved in the incident back in December  
4 -- February 2016?

5 A. So -- so the tank involved in  
6 the incident has a -- a manufacturing date  
7 stamp of August 1998. So Tyco acquired the  
8 parent company of Pyro-Chem in 1998, and  
9 from my review of the Worthington drawing  
10 for this tank, it looks like the design  
11 activity occurred prior to 1998. So I was  
12 unable to find design drawings from the  
13 Pyro-Chem pre acquisition and/or the  
14 engineering change notices prior to  
15 acquisition. So I can't speak exactly to  
16 this tank and the design period because it  
17 was pre acquisition.

18 Q. In terms of what you understand  
19 to be the markings on this tank that was  
20 involved in this incident, those markings  
21 are essentially engraved into the green and  
22 red tank, correct?

23 A. Correct. Yep. These are the  
24 -- the DOT-required markings.

25 Q. And so my -- my questioning is

1 A. MENOR

2 along those lines. How was it determined  
3 what markings would have gone on that tank  
4 when it left the possession of the  
5 manufacturer or distributor which as I  
6 understand it would have been Pyro-Chem  
7 before Tyco acquired it. Do you  
8 understand?

9 A. I do. Yep.

10 Q. Can you answer that question?

11 A. Yep. So -- so these markings  
12 are in compliance with the DOT standard.  
13 It would be 49 CFR, for Code of Federal  
14 Regulations. That specifies the marking  
15 requirements for this type of cylinder, a  
16 4BW specification cylinder.

17 Q. Do you have any knowledge --  
18 although I get it would be hindsight, do  
19 you have any knowledge as to whether  
20 Pyro-Chem had placed additional markings on  
21 their products --

22 THE COURT REPORTER: I'm sorry,  
23 I need you to repeat the question for  
24 me, please.

25 MR. FROMSON: Absolutely. I'll

1 A. MENOR

2 start again.

3 THE COURT REPORTER: Thank you.

4 Q. My preface -- my foundation is  
5 still about the types of markings that are  
6 placed on tanks. Are you with me?

7 A. I am.

8 Q. All right. And so do you know  
9 whether Pyro-Chem, during the calendar year  
10 1998 or before, ever had a practice where  
11 they would put more information on their  
12 tank drawings than was, as you say,  
13 required by DOT?

14 MS. BALTZELL: Objection.  
15 Foundation.

16 A. I don't know.

17 Q. You can answer. All right.  
18 Now, during the calendar year of 1998 and  
19 before, is it fair to say you were not yet  
20 employed in the industry? Right?

21 A. That is fair to say, yes.

22 Q. Referencing the actual markings  
23 on the subject tank that was involved in  
24 this event, when you use the term DOT, can  
25 you educate us on what DOT stands for?

1 A. MENOR

2 A. DOT is an acronym for the  
3 Department of Transportation.

4 Q. And you also referenced the --  
5 the M4543 number. Do you recall that?

6 A. I did not reference that in my  
7 testimony here, but I do see that number in  
8 the OSHA report.

9 Q. Okay. I apologize for that.  
10 Do you have an understanding as to whether  
11 the numbers M4543 were also engraved on the  
12 subject tank?

13 A. From my review of the OSHA  
14 report, it looks like M4543 was engraved in  
15 the tank.

16 Q. And do you have -- and given  
17 your -- your background, your employment,  
18 you know, what you do for a living, do you  
19 have an understanding as to what those  
20 numbers reflect?

21 A. So I believe those tie back to  
22 the manufacturer of the tank, Worthington,  
23 and/or the inspector of the tank during  
24 production of the tank.

25 Q. Now, referencing again the

1 A. MENOR

2 topic heading of what language goes on a  
3 tank as far as labeling, are you familiar  
4 with the term called a "nameplate"?

5 A. I am.

6 Q. Can you educate us on what is a  
7 nameplate in your industry?

8 A. In our industry a nameplate  
9 would go on a -- a finished good assembly  
10 that would identify the contents of that,  
11 as well as some additional information such  
12 as any third-party approvals, like UL,  
13 Underwriters Laboratory, that that product  
14 has been tested and certified to.

15 Q. Are you familiar with  
16 nameplates that were being utilized on fire  
17 suppression tanks back in 1998?

18 A. From my review of drawings from  
19 that time period, yes.

20 Q. Generally speaking, what was  
21 your -- let me ask you this. Was it your  
22 understanding that on a test tank, such as  
23 the test tank involved in this case, that  
24 nameplates were not put on the tanks?

25 A. It is my understanding that,

1 A. MENOR

2 yes, there was no nameplate put on the test  
3 tank.

4 Q. And do you have an  
5 understanding as to why?

6 A. I do not.

7 Q. Do you have an understanding as  
8 to whether nameplates were generally put on  
9 agent tanks as opposed to test tanks?

10 A. Yes.

11 Q. And with respect to the  
12 nameplate that would have -- withdrawn.

13 Is it fair to say it's your  
14 understanding there would have been a  
15 nameplate on the corresponding 240 agent  
16 tank or a corresponding 300 agent tank --

17 A. Yes.

18 Q. -- back in 1998?

19 A. Yes.

20 Q. And -- and if you haven't gone  
21 back and reviewed those nameplates you let  
22 me know, but are you able to tell us what  
23 information was on the nameplates of a  
24 Pyro-Chem 240 tank back in 1998?

25 A. I haven't reviewed that

1 A. MENOR

2 nameplate drawing specifically, so I can't  
3 speak to all of the details that are on  
4 that tank, that nameplate. But, you know,  
5 like I mentioned earlier, it would be  
6 things like the name of the product, any  
7 certifications that the product -- the  
8 contents of that assembly.

9 Q. Would your -- and would your --  
10 would your answer be the same for either a  
11 300 agent tank or a 240 agent tank, so I  
12 don't have to ask the same question twice?

13 A. That's correct, yeah, the  
14 contents of the label -- nameplate would be  
15 similar. The details would vary depending  
16 on the size.

17 Q. As it pertains to this subject  
18 test tank that was involved in the  
19 explosion, do you know whether there were  
20 any documents, manuals, standard operating  
21 procedures maintained by Pyro-Chem that  
22 would lay out what was to be on a tank's  
23 markings, or rather what markings were to  
24 be on a tank back then, during that  
25 manufacturing phase?

1 A. MENOR

2 A. Specific to the test tank?

3 Q. Yeah.

4 A. No. I'm not aware of -- of any  
5 documents.

6 Q. Are you familiar -- well,  
7 actually, hold on one moment. I want to  
8 make sure I'm asking you a question that's  
9 within the documents you're designated to  
10 discuss.

11 All right. Let's look to --  
12 let's discuss the standards and regulations  
13 in addition to DOT as you understood them.  
14 I'm looking at my Topic Number 10, which is  
15 basically a way of outlining -- it's going  
16 to ask you questions about things like  
17 NFPA, CGA, DOT, OSHA, and ASME. So with  
18 that as a background, can you educate us on  
19 what is meant by the acronym NFPA?

20 A. NFPA stands for the National  
21 Fire Protection Association.

22 Q. And do you have an  
23 understanding as to whether Pyro-Chem was  
24 putting products such as this test tank  
25 into the market in a manner that was

1 A. MENOR

2 governed by NFPA back in 1998?

3 A. Could you repeat the question?

4 I'm --

5 Q. Sure. Let me ask it in a much

6 shorter way. Did Pyro-Chem follow NFPA

7 back in 1998?

8 A. So from my review of -- of the  
9 drawings and their approvals, they would  
10 have followed NFPA through their UL  
11 listing. So the UL is Underwriters  
12 Laboratory. So products that they certify,  
13 using UL, tie to the NFPA standards.

14 Q. And were you familiar with and  
15 are you familiar with NFPA Number 17?

16 A. I'm aware of NFPA 17.

17 Q. Without asking you to cite it  
18 chapter and verse succinctly, what's your  
19 understanding of what 17 covers?

20 A. So there's 17 and 17A. And I  
21 don't have the title of NFPA 17 in front of  
22 me, but I believe that would be for dry  
23 chemical extinguishing systems.

24 Q. And the test tank that's  
25 involved in this case, was that considered

1 A. MENOR

2 a dry chemical or a wet chemical  
3 suppression tank?

4 A. The test tank that was in this  
5 case was a tool for wet chemical systems.

6 Q. And was wet chemical systems  
7 covered by 17A?

8 A. That is my understanding, yes.

9 Q. As far as the engineering  
10 drawings that pertain to the -- to the tank  
11 in this case, you looked at those?

12 A. I did.

13 Q. Did you notice one of the  
14 drawings pertained to the carton, the box,  
15 in which the tank would be shipped?

16 A. I did.

17 Q. Do you know who came up with  
18 that language on -- on the box?

19 A. I would have to review that,  
20 that drawing.

21 Q. Do you know whether any  
22 drawings exist that demonstrate where the  
23 markings on the tank would go?

24 A. The -- I believe the cylinder  
25 -- the drawing for the cylinder itself

1 A. MENOR

2 would identify the markings that are  
3 required or reference the standard that  
4 defines what markings are required and the  
5 location of said markings.

6 Q. And were those drawings done --  
7 as it pertains to this tank, the 240 tank  
8 that you believe was involved in the event,  
9 were those drawings done by Worthington,  
10 the manufacturer of the subject tank  
11 itself?

12 A. So from my review and my  
13 understanding of the situation, Worthington  
14 would have collaborated with Pyro-Chem at  
15 the time to design that 240 tank.

16 Q. If I were to ask you any  
17 questions related to the language in the  
18 man -- in the technical manuals, how that  
19 language was there, who decided to put it  
20 there, is that something that you're not  
21 prepared to testify about today but,  
22 rather, that's something for the other  
23 gentleman today whose name is Curt Harding?

24 A. That is correct, yes. It's --  
25 yeah, Curt is prepared to discuss that.

1 A. MENOR

2 Q. That might make my deposition  
3 of you quite short. So give me one moment.  
4 All right?

5 A. Absolutely.

6 MR. FROMSON: You know what,  
7 let's take a five-minute break. All  
8 right?

9 THE VIDEOGRAPHER: We're off  
10 the record. The time is 8:44 a.m.  
11 (Recess held.)

12 THE VIDEOGRAPHER: We're back  
13 on the record. The time is 8:53 a.m.

14 Q. (By Mr. Fromson:) Mr. Menor,  
15 thanks for taking the break. Appreciate  
16 it.

17 Do you have an understanding as  
18 to what if any other language to be marked  
19 on the subject test tank in this case was  
20 considered back during the 1998 time frame?

21 A. I do not. I did a review with  
22 my colleagues who were employed by Tyco at  
23 that time to see if they have any access to  
24 old drawings or change notices or design  
25 diaries from Pyro-Chem, and we were not

1 A. MENOR

2 able to uncover any, discover any.

3 Q. And as it pertains to the  
4 technical manuals, the instruction  
5 booklets, for the -- the test tank or the  
6 agent tanks, what have you, is that a topic  
7 that's left for Curt to discuss, in other  
8 words what language went into those manuals  
9 and why?

10 A. It is for Curt to discuss.

11 Q. Do you know the location of  
12 where the product was manufactured and  
13 assembled before it went out of the  
14 possession, custody, and control of  
15 Pyro-Chem back in 1998?

16 A. I've got -- so the  
17 manufacturing location of Pyro-Chem is in  
18 Boonton, New Jersey, and I believe the  
19 address is on the design drawings from that  
20 time.

21 Q. So generally speaking, it's  
22 your understanding, on behalf of Tyco, --

23 A. Um-hmm.

24 Q. -- that the product was  
25 assembled -- in other words the tank and

1 A. MENOR

2 the assembly and the valve assembly was  
3 assembled in Boonton, New Jersey and then  
4 essentially was shipped out the proverbial  
5 door into the marketplace from Boonton, New  
6 Jersey; is that fair?

7 A. That is my understanding, yes.

8 Q. And in terms of the time frame  
9 post manufacture and assembly back in '98,  
10 are you able to tell us when it went out  
11 that proverbial door into the marketplace?  
12 By that I mean just because it was  
13 manufactured in 1998 doesn't necessarily  
14 mean it left Pyro-Chem's possession,  
15 custody, and control in '98. Do you know  
16 when it left the door?

17 A. I do not.

18 Q. Have you observed -- have you  
19 seen any records that reflect when it went  
20 into the marketplace but you just don't  
21 recall?

22 A. I have not seen any records  
23 that would have shown when that particular  
24 test tank was placed on the market.

25 MR. FROMSON: I told you I'd be

1 A. MENOR

2 short, and I don't have any questions  
3 at this time. Thanks so much.

4 THE WITNESS: Thank you.

5 MR. FROMSON: I'll pass the  
6 witness.

7 EXAMINATION BY

8 MS. FAPPIANO:

9 Q. Good morning.

10 A. Good morning.

11 Q. As I mentioned earlier, I  
12 represent Oprandy's Fire & Equipment in  
13 this action. I just have a few follow-up  
14 questions on a couple items that were in my  
15 notice that I'm going to ask you.

16 My -- so getting back onto that  
17 topic that we were just talking about, what  
18 happened to the product once it was  
19 manufactured, have you done a search for  
20 documents to determine to whom it was  
21 originally sold?

22 A. I personally have not done that  
23 search, no.

24 Q. Okay. Have you seen any  
25 documents that indicate to whom it was

1 A. MENOR

2 originally sold?

3 A. No, I have not.

4 Q. Are you familiar with Oprandy's  
5 Fire & Equipment other than this  
6 litigation?

7 A. I am not.

8 Q. Okay. We talked about the  
9 difference between a test tank and an agent  
10 tank. Based upon your experience and the  
11 documents that you have reviewed, would a  
12 test tank be sold to a different type of  
13 customer than an agent tank?

14 A. No.

15 Q. They have two different  
16 purposes, though; is that correct?

17 A. That is correct, yep.

18 Q. And can you describe for me the  
19 distinction between their two purposes?

20 A. So an agent tank is part of a  
21 fire suppression system, to protect a  
22 restaurant, in this particular case. A  
23 test tank is to be used in the testing of  
24 that system, specifically the piping of  
25 that system, to ensure the integrity of

1 A. MENOR

2 that piping, that there's no obstructions  
3 in the piping, so that when the agent tank  
4 would need to be discharged, that the  
5 system would have the ability to flow  
6 through the piping and suppress the fire.

7 Q. Okay. And the testing that you  
8 just described, is that testing that is  
9 intended to happen at the point of  
10 installation or periodically or something  
11 else?

12 A. My understanding, that would be  
13 at the time of installation and  
14 commissioning of the system if the local  
15 AHJ, the authority having jurisdiction,  
16 would require such a test.

17 Q. Okay. And you don't know into  
18 which jurisdiction this particular tank was  
19 originally sold; is that correct?

20 A. That is correct.

21 Q. And I suspect I know the answer  
22 to some of these questions, but I'm going  
23 to do this on the record anyway. Do you  
24 have any knowledge, besides your review of  
25 the documents, as to what design decisions

1 A. MENOR

2 were made with regard to this particular  
3 tank?

4 A. I do not.

5 Q. Okay. Do you know if any  
6 alternative designs were considered?

7 A. I do not.

8 Q. Do you know if there were, in  
9 the testing phase of this particular test  
10 tank, any issues with its performance  
11 before it was put into the marketplace?

12 A. I'm not aware.

13 Q. Are you aware of there having  
14 been any other similar accidents or  
15 failures due to overpressurization of a  
16 similar type of test tank?

17 A. In my review and discussion  
18 with our risk management team, they have a  
19 record retention of ten years, and they did  
20 a review and were not able to find any  
21 other incidents.

22 Q. Okay. Of any kind? Or with  
23 regard to overpressurization?

24 A. With regard to this test tank  
25 and overpressurization.

1 A. MENOR

2 Q. Okay. And you did review the  
3 OSHA report, so you understand that they  
4 made a conclusion that overpressurization  
5 was the reason that this tank failed; is  
6 that correct?

7 A. I understand that that was the  
8 conclusion, yes.

9 Q. Okay. Besides the tank and  
10 valve assembly to which you referred  
11 earlier, to your knowledge were there any  
12 other component parts that were provided  
13 with the test tank to be used by the end  
14 user?

15 A. So that would be based on my  
16 review of the finished good assembly  
17 drawing, and there's some items more  
18 related to shipping, bubble wrap and  
19 carton, than the actual components of the  
20 test tank. So -- so my --

21 Q. Okay.

22 A. You know, I would like to pull  
23 up the drawing just to confirm that, but  
24 from my review of the test tank finished  
25 good assembly drawing, those would be the

1 A. MENOR

2 -- the two primary components, the cylinder  
3 and the valve assembly.

4 Q. Okay. You understand what a  
5 pressure regulator is?

6 A. I'm aware of what pressure  
7 regulators are and what they do, yes.

8 Q. Okay. Was there a pressure  
9 regulator that was to be sold with this  
10 test tank as a matter of design?

11 A. With the Kitchen Knight test  
12 tank, no, there wasn't a pressure regulator  
13 sold with it.

14 Q. And it's -- and we've heard  
15 this a couple times from you. You're not  
16 familiar with what the manual information  
17 is for this test tank; am I correct?

18 A. That's correct.

19 Q. Are you familiar with the term  
20 "pressure relief valve" or the component, a  
21 pressure relief valve?

22 A. I'm familiar with that term,  
23 yeah, a pressure relief valve.

24 Q. Can you just tell me from your  
25 understanding what that is?

1 A. MENOR

2 A. So a pressure relief valve  
3 relieves pressure of cylinders. Depending  
4 on a number of instances, there could be  
5 different styles, like a fusible one that's  
6 more dependent on temperature, and then  
7 there's ones that are dependent on pressure  
8 to operate.

9 Q. And based upon your review of  
10 the documents, do you know if any decisions  
11 were made about whether to include a  
12 pressure relief valve with this particular  
13 type of test tank?

14 A. Based off of my review, I  
15 didn't -- I wasn't able to get the -- any  
16 of the Pyro-Chem drawings or related  
17 specifications to that, but from my review  
18 of 49 CFR, the DOT regulation, they don't  
19 require pressure relief valves at this  
20 certain pressure and size of the cylinder.

21 Q. Okay. Do you have any  
22 knowledge or information about the type of  
23 training that would be required for a user  
24 or a -- a consumer for this particular type  
25 of test tank?

1 A. MENOR

2 A. I'm not aware, no.

3 Q. Okay. Give me one moment  
4 because I'm just kind of scrolling through  
5 what your particular knowledge is so I'm  
6 asking the appropriate questions of you.

7 A. Yes, no problem.

8 Q. Can you tell us whether, when a  
9 product is put into the marketplace,  
10 whether there's any sort of database or  
11 registration of this particular type of  
12 test tank that occurs, some central  
13 location that would indicate where -- where  
14 it's -- it -- by whom it's purchased, where  
15 it goes from there?

16 A. I'm not aware of any such  
17 database for once the tank is placed on the  
18 market.

19 Q. Okay. Thank you. Have you had  
20 any conversations or dealings with  
21 Oprandy's in connection with this  
22 litigation?

23 A. I have not.

24 Q. Okay. Did you have -- besides  
25 reviewing the OSHA report, did you have any

1 A. MENOR

2 involvement with the investigation itself  
3 following the accident?

4 A. I did not.

5 Q. Do you know whether there is  
6 any practice by Tyco to track, internally,  
7 where a product is sold to and where it  
8 goes from there?

9 A. I'm not aware of that. We do  
10 have a list of authorized distributors that  
11 we use to control who the product is sold  
12 to, but then past that we don't have  
13 systems or controls who those distributors  
14 -- what they decide to do with the product.

15 Q. Okay. Give me one second.

16 MR. FROMSON: Can I ask a  
17 general question?

18 MS. FAPPIANO: Go for it.

19 EXAMINATION BY

20 MR. FROMSON:

21 Q. I'm just going to ask you a  
22 general history legacy question. Do you  
23 know what Pyro-Chem's business was back in  
24 the mid '90s to 1998?

25 A. From my review of the

1 A. MENOR

2 documents, they were a fire suppression  
3 manufacturer.

4 Q. And do you know the size of the  
5 company in terms of how many employees were  
6 in Boonton, New Jersey at the time this was  
7 assembled?

8 A. I do not, no.

9 Q. Do you know how many engineers  
10 they had?

11 A. I do not.

12 Q. And do you know the chronology  
13 in terms of when Tyco Fire Products LP  
14 merged or somehow took over assets of  
15 Pyro-Chem?

16 A. I know that -- the general  
17 timing being in 1998. The exact details of  
18 -- of the merger and the transition, I am  
19 not aware of the specifics of that.

20 Q. Let me ask it a different way.  
21 Do you know when Tyco took on the  
22 responsibility for the product that  
23 Pyro-Chem had manufactured, this subject  
24 test tank?

25 A. Yeah, so from my review of the

1 A. MENOR

2 -- the drawings, so we were able to find  
3 the Tyco drawings, so that would indicate  
4 to me that that -- at that time Tyco  
5 created drawings for this product that was  
6 priorly Pyro-Chem's product. And so that  
7 activity is in the engineering change  
8 notices and on the drawings, and that's in  
9 the 1998 time frame.

10 EXAMINATION BY

11 MS. FAPPIANO:

12 Q. I think my last question is you  
13 mentioned you do have some colleagues who  
14 are working there now who were back there  
15 in 1998. Were -- did any of them have any  
16 involvement with the manufacture of this  
17 test tank?

18 A. No.

19 MS. FAPPIANO: Okay.

20 EXAMINATION BY

21 MR. FROMSON:

22 Q. On -- with respect to her line  
23 of questioning, did any of those  
24 individuals have participation in the  
25 implementation of the markings, the

1 A. MENOR

2 language on the test tank?

3 A. No.

4 MS. FAPPIANO: I think that's

5 all we have for you, Mr. Menor.

6 Thank you very much.

7 MR. FROMSON: Thank you for

8 your time.

9 THE WITNESS: Thank you both.

10 Have a good rest of your day.

11 THE VIDEOGRAPHER: This is the

12 end of the deposition of Adam Menor

13 on September 12th, 2019. We're off

14 the record at 9:09 a.m.

15 THE COURT REPORTER: Can I just

16 have you state on the record, on the

17 written record, you transcript orders

18 for me, please?

19 MR. FROMSON: Sure on behalf of

20 plaintiff, I'll take an E-Transcript

21 and I -- and I assume Sarah will get

22 a copy and have her witness sign it

23 at some point?

24 MS. BALTZELL: Correct.

25 MS. FAPPIANO: Same here.

1 A. MENOR

2 MR. FROMSON: Thank you.

3 THE COURT REPORTER: So, Tara,  
4 an E-Tran as well, did you say?

5 MS. FAPPIANO: Yes. Thank you.

6 THE COURT REPORTER: Thank you.

7 MS. BALTZELL: I'll do an  
8 E-Tran as well.

9 THE VIDEOGRAPHER: Are there  
10 any video orders?

11 MR. FROMSON: I don't need to  
12 make an order right now. My order  
13 will probably come as we get closer  
14 to trial. Okay?

15 THE VIDEOGRAPHER: Okay.

16 MS. FAPPIANO: Yeah, I'll do  
17 the same thing. That's fine.

18 (Whereupon, at 9:09 A.M., the  
19 Examination of this witness was  
20 concluded.)

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A. MENOR

D E C L A R A T I O N

I hereby certify that having been  
first duly sworn to testify to the truth, I  
gave the above testimony.

I FURTHER CERTIFY that the foregoing  
transcript is a true and correct transcript  
of the testimony given by me at the time  
and place specified hereinbefore.

\_\_\_\_\_  
ADAM R. MENOR

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

1 A. MENOR

2 E X H I B I T S

3

4 EXHIBIT EXHIBIT PAGE

5 NUMBER DESCRIPTION

6 (None)

7

8 I N D E X

9

10 EXAMINATION BY PAGE

11 MR. FROMSON 7, 43, 45

12 MS. FAPPIANO 35, 45

13

14

15 INFORMATION AND/OR DOCUMENTS REQUESTED

16 INFORMATION AND/OR DOCUMENTS PAGE

17 (None)

18

19

20 QUESTIONS MARKED FOR RULINGS

21 PAGE LINE QUESTION

22 (None)

23

24

25

1 A. MENOR

2 C E R T I F I C A T E

3

4 STATE OF WISCONSIN )  
5 : SS.:  
6 COUNTY OF BROWN )

7

8 I, CARRIE S. BOHRER, a Notary Public  
9 for and within the State of Wisconsin, do  
10 hereby certify:

11 That the witness whose examination is  
12 hereinbefore set forth was duly sworn and  
13 that such examination is a true record of  
14 the testimony given by that witness.

15 I further certify that I am not  
16 related to any of the parties to this  
17 action by blood or by marriage and that I  
18 am in no way interested in the outcome of  
19 this matter.

20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand this 18th day of September  
22 2019.

23

24

25



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CARRIE S. BOHRER